DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

Re: PRISTIQ
Patent Nos. 6,673,838 and 7,291,347
Docket Nos. FDA-2009-E-0084
FDA-2009-E-0086

FEB 17 2010

The Honorable David J. Kappos
Under Secretary of Commerce for Intellectual Property
Director of the United States Patent and Trademark Office
Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Director Kappos:

This is in regard to the applications for patent term extension for U.S. Patent Nos. 6,673,838 and 7,291,347 filed by Wyeth Pharmaceuticals under 35 U.S.C. § 156. The human drug product claimed by the patents is PRISTIQ (desvenlafaxine sucinate), which was assigned new drug application (NDA) No. 21-966.

A review of the Food and Drug Administration's official records indicates that this product was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. § 156(a)(4). Our records also indicate that it represents the first permitted commercial marketing or use of the product, as defined under 35 U.S.C. § 156(f)(1).

The NDA was approved on February 29, 2008, which makes the submission of the patent term extension applications on April 25, 2008, timely within the meaning of 35 U.S.C. § 156(d)(1).

Should you conclude that the subject patents are eligible for patent term extension, please advise us accordingly. As required by 35 U.S.C. § 156(d)(2)(A) we will then determine the applicable regulatory review period, publish the determination in the *Federal Register*, and notify you of our determination.

Please let me know if we can be of further assistance.

Sincerely yours,

Jane A. Axelrad

Jane A. Axelrad
Associate Director for Policy
Center for Drug Evaluation and Research

cc: Kevin G. Shaw
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